

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HORIZON CELLULAR TELEPHONE COMPANY)	
OF CENTRAL KENTUCKY, L.P., A DELAWARE LIMITED)	
PARTNERSHIP, FOR ISSUANCE OF A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AN)	CASE NO.
ADDITIONAL CELL FACILITY IN THE KENTUCKY RURAL)	95-165
SERVICE AREA NO. 8 WHICH INCLUDES MASON, LEWIS,)	
FLEMING, BATH, MONTGOMERY, ROWAN, BRACKEN,)	
ROBERTSON, NICHOLAS, AND MENIFEE COUNTIES IN)	
KENTUCKY (THE CARLISLE CELL FACILITY))	

O R D E R

On April 12, 1995, Horizon Cellular Telephone Company of Central Kentucky, L.P. ("Horizon Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 8 ("RSA No. 8"). RSA No. 8 includes Bath, Bracken, Fleming, Lewis, Mason, Meniffee, Montgomery, Nicholas, Robertson, and Rowan counties. Horizon Cellular has requested authorization to construct a cell site in Nicholas County. Horizon Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 8 in Case No. 93-048.¹

¹ Case No. 93-048, The Joint Application of Danbury Cellular Telephone Co., a Connecticut Corporation d/b/a Cellular One/United Bluegrass Cellular Corp., and Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership, for Approval of the Transfer of the Assets and Liabilities of Danbury Cellular Telephone Co. to Horizon Cellular Telephone Company of Central Kentucky, L.P., and Related Financing.

The proposed cell site consists of a 280-foot or less guyed antenna tower to be located at 685 Stoney Creek Road, Nicholas County, Kentucky ("the Carlisle cell site"). The coordinates for the Carlisle cell site are North Latitude 38° 20' 40.3" by West Longitude 84° 00' 51.7".

Horizon Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Carlisle cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Carlisle cell site's construction is exempt from local zoning ordinances; however, Horizon Cellular notified the Nicholas County Judge/Executive of the pending construction. Horizon Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Carlisle cell site. Both applications are still pending.

Horizon Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Carlisle cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. On April 20, 1995, the Commission received a letter requesting intervention from Kenneth

and Dianne Barbee. On April 24, 1995, the Commission received a letter requesting information from Danny Hobbs. On April 27, 1995, the Commission received another letter requesting intervention. This letter was signed by Darrell and Pam Hicks, William and Ethel Hicks, Ricky and Billie Jo Sparks, Mark and Vicky Kendrick, and Angie Mitchell. The Commission informed Horizon Cellular of these letters and ordered it to respond to the inquiries. On May 3, 1995 and May 10, 1995, the Commission, treating the letters requesting intervention as motions to intervene, entered orders granting the motions. The Commission also notified the individuals of their right to request a hearing. To date, no hearing requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Horizon Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Horizon Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Horizon Cellular

should be granted a Certificate of Public Convenience and Necessity to construct and operate the Carlisle cell site in RSA No. 8 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Horizon Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Carlisle cell site.

2. Horizon Cellular shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

3. Horizon Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 20th day of July, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director